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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

TRAVIS FRANKLIN, an individual, on behalf  
of himself and on behalf of all persons similarly  
situated,

Plaintiff,

vs.

HOME DEPOT U.S.A., INC., a corporation;  
and DOES 1 through 50, inclusive,

Defendants.

Case No. 5:25-cv-03657-BLF

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION  
OF CAL. BUS. & PROF. CODE §§ 17200;  
2. FAILURE TO PAY MINIMUM WAGES  
IN VIOLATION OF CAL. LAB. CODE §§  
1194, 1197 & 1197.1;  
3. FAILURE TO PAY OVERTIME WAGES  
IN VIOLATION OF CAL. LAB. CODE § 510;  
4. FAILURE TO PROVIDE REQUIRED  
MEAL PERIODS IN VIOLATION OF CAL.  
LAB. CODE §§ 226.7 & 512 AND THE  
APPLICABLE IWC WAGE ORDER;  
5. FAILURE TO PROVIDE REQUIRED  
REST PERIODS IN VIOLATION OF CAL.  
LAB. CODE §§ 226.7 & 512 AND THE  
APPLICABLE IWC WAGE ORDER;  
6. FAILURE TO PROVIDE ACCURATE  
ITEMIZED STATEMENTS IN VIOLATION  
OF CAL. LAB. CODE § 226;  
7. FAILURE TO REIMBURSE EMPLOYEES  
FOR REQUIRED EXPENSES IN  
VIOLATION OF CAL. LAB. CODE § 2802;  
8. FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB. CODE  
§§ 201, 202 AND 203; and,  
9. FAILURE TO PAY SICK PAY WAGES IN  
VIOLATION OF CAL. LAB CODE §§201-  
203, 233, 246.

**DEMAND FOR A JURY TRIAL**

1 Travis Franklin ("PLAINTIFF"), an individual, on behalf of himself and all other  
2 similarly situated current and former employees alleges on information and belief, except for  
3 his own acts and knowledge which are based on personal knowledge, the following.

4  
5 **THE PARTIES**

6 1. Home Depot U.S.A., Inc. ("DEFENDANT") is a corporation that at all relevant  
7 times mentioned herein conducted and continues to conduct substantial business in California.

8 2. DEFENDANT owns and operates home improvement retail stores in California.

9 3. PLAINTIFF Travis Franklin was employed by DEFENDANT in California from  
10 June of 2021 to July of 2024 as a night shift Travel Merchandising Execution Associate.  
11 Plaintiff was based at the Home Depot retail store in Salinas, California, but would travel to,  
12 and work at, other Home Depot stores in the surrounding area. PLAINTIFF was at all times  
13 classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled  
14 to the legally required meal and rest periods and payment of minimum and overtime wages due  
15 for all time worked.

16 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
17 defined as all individuals who are or previously were employed by DEFENDANT in California,  
18 including any employees staffed with DEFENDANT by a third party, and classified as non-  
19 exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning  
20 March 21, 2021 and ending on the date as determined by the Court (the "CALIFORNIA CLASS  
21 PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS  
22 Members is under five million dollars (\$5,000,000.00).

23 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
24 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
25 the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice which  
26 failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged  
27 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained  
28 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA

1 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
2 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
3 the other members of the CALIFORNIA CLASS who have been economically injured by  
4 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and  
5 equitable relief.

6 6. The agents, servants and/or employees of the Defendants and each of them acting  
7 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
8 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
9 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
10 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
11 all Defendants are jointly and severally liable to PLAINTIFF and the other members of the  
12 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the  
13 Defendants' agents, servants and/or employees.

### 14 15 THE CONDUCT

16 7. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
17 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
18 meaning the time during which an employee is subject to the control of an employer, including  
19 all the time the employee is suffered or permitted to work. PLAINTIFF was required to clock  
20 in and out using a specific time clock located in the middle of the store, which was shared with  
21 other employees. As a result, there were frequent delays when clocking in, and PLAINTIFF was  
22 required to arrive early and regularly stand in line for up for at least three minutes under  
23 Defendant's control in order to clock in timely. It was also common practice for PLAINTIFF  
24 to arrive at work approximately ten to fifteen minutes before his scheduled start time to discuss  
25 assigned work with supervisors, including the status of current and future work projects, without  
26 being compensated for that time. DEFENDANT also had a uniform policy and practice of  
27 unlawfully requiring PLAINTIFF to answer phone calls to discuss work-related issues, despite  
28 being off the clock. Additionally, DEFENDANT regularly conducted work meetings to go over

1 procedures such as training modules with PLAINTIFF while he was clocked out for his meal  
2 period. Thus, DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to  
3 work without paying them for all the time they are under DEFENDANT's dominion and  
4 control.

5 8. DEFENDANT, as a matter of established company policy and procedure,  
6 administers a uniform practice of rounding the actual time worked by PLAINTIFF and  
7 CALIFORNIA CLASS Members, during a portion of the relevant time period, so that during  
8 the course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less  
9 than they would have been paid had they been paid for actual time rather than "rounded" time.  
10 Specifically, PLAINTIFF and the CALIFORNIA CLASS Members would often arrive at work  
11 before their scheduled start time, and during that time discuss their assigned work projects with  
12 their supervisors, which was not reflected in the time clock system. To that end, as directed by  
13 DEFENDANT through management and supervisors, including but not limited to supervisor  
14 Matthew Castrajon, PLAINTIFF and CALIFORNIA CLASS Members would clock in at their  
15 scheduled time, despite engaging with management regarding assigned projects, not the time  
16 they actually worked and were under DEFENDANT's dominion and control. As a result, their  
17 recorded time did not accurately capture all of time worked. Thus, DEFENDANT knew or  
18 reasonably should have known that their time clock system did not reflect actual time worked,  
19 as PLAINTIFF and the CALIFORNIA CLASS Members were expressly required by  
20 DEFENDANT's policies, procedures, and directives to round their time when entering it into  
21 the online system. PLAINTIFF understands that the CALIFORNIA CLASS Members at his  
22 location, and other locations, also received similar directives from their supervisors and  
23 managers and recorded their time in the same or similar manner. Therefore, PLAINTIFF and  
24 the CALIFORNIA CLASS Members recorded time did not accurately capture all of their actual  
25 time worked.

26 9. As a result of the foregoing, PLAINTIFF and other CALIFORNIA CLASS  
27 Members forfeit minimum wage, and overtime wage compensation, by working without their  
28 time being correctly recorded and without compensation at the applicable rates. Specifically,

1 DEFENDANT failed to pay PLAINTIFF for all wages due for the following pay periods:  
2 4/29/2024-5/12/2024; 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; 6/10/2024-6/23/2024. To the  
3 extent that the time worked off the clock does not qualify for overtime premium payment,  
4 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of  
5 Cal. Lab. Code §§ 1194, 1197, and 1197.1. DEFENDANT's policy and practice not to pay  
6 PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, is evidenced by  
7 DEFENDANT's business records.

8 10. DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members  
9 to complete their work assignments within unrealistic time frames, and therefore PLAINTIFF  
10 and the CALIFORNIA CLASS Members were from time to time unable to take thirty (30)  
11 minute off duty meal breaks and were not fully relieved of duty for their meal periods.  
12 DEFENDANT required PLAINTIFF to work while clocked out during what is supposed to be  
13 PLAINTIFF's off-duty meal break. Specifically, DEFENDANT, including manager Matthew  
14 Castrajon, forced PLAINTIFF to clock out on the time clock for his meal break, and keep  
15 working as his assignment was "time sensitive." Specifically, during the following pay periods  
16 (and potential other pay periods as well), PLAINTIFF either took a late meal period, had a  
17 shortened meal period, or was interrupted by DEFENDANT during his period, on at least four  
18 occasions: 4/29/2024-5/12/2024; 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; and 6/10/2024-  
19 6/23/2024. PLAINTIFF was also commonly interrupted during this specific time period due to  
20 phone calls and text messages from his supervisors, including, but not limited to, Matthew  
21 Castrajon, and other co-workers while taking his meal period. PLAINTIFF's meal period were  
22 also interrupted by supervisors, including but not limited to Matthew Castrajon, who used  
23 PLAINTIFF and the CALIFORNIA CLASS Members' meal period to conduct work meetings,  
24 and used the time to discuss the status of current and future work assignments. Thus,  
25 PLAINTIFF understands that the CALIFORNIA CLASS Members from time to time had meal  
26 and rest period that were untimely, short and interrupted. DEFENDANT knew or reasonably  
27 should have known PLAINTIFF and the CALIFORNIA CLASS Members were being  
28 interrupted during what should have been their off-duty meal periods, but failed to take any

1 action to further prevent meal break violations and remedy past violations. Therefore, as  
2 described above, PLAINTIFF and other CALIFORNIA CLASS Members were interrupted  
3 during their meal breaks, and were required from time to time to perform work as ordered by  
4 DEFENDANT for more than five (5) hours during some shifts without receiving a meal break.  
5 A review of PLAINTIFF's wage statements reveals DEFENDANT failed to pay PLAINTIFF  
6 any meal break penalties in any of the following pay periods: 4/29/2024-5/12/2024; 5/13/2024-  
7 5/26/2024; 5/27/2024-6/09/2024; and 6/10/2024-6/23/2024, which are examples, without  
8 limitation, of instances where he experienced meal and rest violations as described above.

9 11. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other  
10 CALIFORNIA CLASS Members were also required from time to time to work in excess of four  
11 (4) hours without being provided ten (10) minute rest periods. Additionally, the applicable  
12 California Wage Order requires employers to provide employees with off-duty rest periods,  
13 which the California Supreme Court defined as time during which an employee is relieved from  
14 all work related duties and free from employer control. In so doing, the Court held that the  
15 requirement under California law that employers authorize and permit all employees to take rest  
16 period means that employers must relieve employees of all duties and relinquish control over  
17 how employees spend their time which includes control over the locations where employees  
18 may take their rest period. Due to DEFENDANT's demands, and the work duties of  
19 PLAINTIFF and the CALIFORNIA CLASS Members were required by DEFENDANT to  
20 perform, PLAINTIFF and the CALIFORNIA CLASS Members were not provided with timely,  
21 uninterrupted, duty-free rest periods. Specifically, due to the nature of the work assignments,  
22 PLAINTIFF and the CALIFORNIA CLASS Members regularly could not take their scheduled  
23 rest break until they finished their assigned projects. PLAINTIFF's rest breaks were commonly  
24 interrupted by supervisors, including but not limited to supervisor Matthew Castrajon, who  
25 ordered him to resume his work projects before his breaks were completed. In accordance with  
26 DEFENDANT's policy and practice, many of PLAINTIFF and the CALIFORNIA CLASS  
27 Members' work assignments had to be completed before the next shift began, such as installing  
28 shelving units and hooks, and emptying merchandise bays, which directly resulted in



1 PLAINTIFF and the CALIFORNIA CLASS Members working through their rest breaks.  
2 Additionally, much like with meal breaks, PLAINTIFF would receive phone calls and emails  
3 from his supervisors, including but limited to Matthew Castrajon, and co-workers during what  
4 should have been his uninterrupted, duty-free rest breaks. Because PLAINTIFF received phone  
5 calls and text messages during rest and meal breaks, he is informed, believes and thereon alleges  
6 that the CALIFORNIA CLASS Members also received phone calls and text messages during  
7 meal and rest breaks. As such, these employees were denied their first rest periods of at least  
8 ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time,  
9 a first and second rest period of at least ten (10) minutes for some shifts worked of between six  
10 (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten  
11 (10) minutes for some shifts worked of ten (10) hours or more from time to time. DEFENDANT  
12 knew or reasonably should have known PLAINTIFF and the CALIFORNIA CLASS Members  
13 were being interrupted during what should have been their off-duty rest periods, but failed to  
14 take any action to prevent further rest break violations and/or remedy past violations.  
15 PLAINTIFF and the CALIFORNIA CLASS Members were also not provided with one hour  
16 wages in lieu thereof. PLAINTIFF's wage statements from pay periods 4/29/2024-5/12/2024;  
17 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; and 6/10/2024-6/23/2024 identify the lack of any  
18 single meal or rest period premium payment paid to PLAINTIFF.

19 12. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
20 other members of the CALIFORNIA CLASS with complete and accurate wage statements  
21 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.  
22 Code § 226 provides that every employer shall furnish each of his or her employees with an  
23 accurate itemized wage statement in writing showing, among other things, gross wages earned  
24 and all applicable hourly rates in effect during the pay period and the corresponding amount of  
25 time worked at each hourly rate. PLAINTIFF and CALIFORNIA CLASS Members were paid  
26 on an hourly basis. However, PLAINTIFF and the CALIFORNIA CLASS Members  
27 experienced frequent delays when clocking in, and would regularly be required to arrive early  
28 to stand in line for up to three minutes while under Defendant's dominion and control. It was

1 also common practice for PLAINTIFF to arrive at work approximately ten to fifteen minutes  
2 before his scheduled start time to discuss assigned work with supervisors, including the status  
3 of current and future work projects, without being compensated for that time. DEFENDANT  
4 also had a uniform policy and practice of unlawfully requiring PLAINTIFF to answer phone  
5 calls to discuss work-related issues, despite being off the clock. Additionally, DEFENDANT  
6 regularly conducted work meetings to go over procedures such as training modules with  
7 PLAINTIFF while he was clocked out for his meal period. Therefore, the hours worked on  
8 PLAINTIFF and the CALIFORNIA CLASS Members' wage statements almost always  
9 inaccurately reflect an incorrect number being paid. As a result, PLAINTIFF and the  
10 CALIFORNIA CLASS Members were paid less than they would have been had they ben paid  
11 for all time worked. Similarly, a review of PLAINTIFF's wage statements also reveals  
12 DEFENDANT failed to pay PLAINTIFF any meal break penalties from pay periods 4/29/2024-  
13 5/12/2024; 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; and 6/10/2024-6/23/2024, even though  
14 PLAINTIFF and the CALIFORNIA CLASS Members were interrupted by work assignments  
15 while clocked out for what should have been their off-duty meal breaks, resulting in wage  
16 statement inaccuracies. Additionally, because PLAINTIFF and CALIFORNIA CLASS  
17 Members were paid on an hourly basis, the wage statements should reflect all applicable hourly  
18 rates during the pay period and the total hours worked, and the applicable pay periods in which  
19 the wages were earned pursuant to Cal. Lab. Code § 226(a). However, the wage statements  
20 DEFENDANT provided to PLAINTIFF and other CALIFORNIA CLASS Members failed to  
21 identify such information. More specifically, the wage statements failed to identify the accurate  
22 total hours worked each pay period. When the hours shown on the wage state are added up, they  
23 do not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code  
24 § 226(a). Aside from the violations listed above in this paragraph, DEFENDANT failed to  
25 issue to PLAINTIFF an itemized wage statement that lists all the requirements under Cal. Lab.  
26 Code §226. Asa result, DEFENDANT from time to time provided PLAINTIFF and the other  
27 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code  
28 §226.



1           13. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and  
2 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting  
3 time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and  
4 believes and based thereon alleges that such failure was willful, such that PLAINTIFF and  
5 members of the CALIFORNIA CLASS whose employment has separated are entitled to waiting  
6 time penalties pursuant to Cal. Lab. Code Sections 201-203.

7           14. DEFENDANT intentionally and knowingly failed to reimburse and indemnify  
8 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses  
9 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence  
10 of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section  
11 2802, employers are required to indemnify employees for all expenses incurred in the course  
12 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall  
13 indemnify his or her employee for all necessary expenditures or losses incurred by the employee  
14 in direct consequence of the discharge of his or her duties, or of his or her obedience to the  
15 directions of the employer, even though unlawful, unless the employee, at the time of obeying  
16 the directions, believed them to be unlawful."

17           15. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS  
18 Members as a business expense, were required by DEFENDANT to use their own personal  
19 cellular phones via calls and texts in order to communicate with managers, supervisors, and co-  
20 workers, both on and off the clock, as a result of and in furtherance of their job duties and work  
21 assignments as employees for DEFENDANT, but are not reimbursed or indemnified by  
22 DEFENDANT for the cost associated with the use of their personal cellular phones for  
23 DEFENDANT's benefit. Specifically, throughout the course of PLAINTIFF's employment,  
24 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use  
25 their personal cellular phones on average, two (2) calls per week, and an average of two (2) text  
26 messages per week, to discuss job assignments all to the benefit of DEFENDANT, while being  
27 off the clock. PLAINTIFF and other CALIFORNIA CLASS Members were also required by  
28 DEFENDANT to use their personal cellular phones on average, three to four (3-4) calls per

1 week, and an average of three to five (3-5) text messages per week, to discuss job assignments  
2 all to the benefit of DEFENDANT, while working on the clock. Additionally, PLAINTIFF and  
3 other CALIFORNIA CLASS Members were required to use their own personal power tools to  
4 complete their assigned work assignments, as the necessary power tools were often not available  
5 to employees. Specifically, Plaintiff was required to use his personal power drill, drill bits,  
6 screwdrivers, and scrappers, as these tools were necessary to complete his job duties, however  
7 such tools were missing or broken in DEFENDANT's tool box. As a result, PLAINTIFF's  
8 personal tools were damaged during the course of his employment. PLAINTIFF is informed,  
9 believes and thereon alleges that the CALIFORNIA CLASS Members also were required to use  
10 their personal cell phones and personal tools in furtherance of their job duties. As a result, in  
11 the course of their employment with DEFENDANT, PLAINTIFF and other members of the  
12 CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not  
13 limited to, costs related to the use of their personal cellular phones all on behalf of and for the  
14 benefit of DEFENDANT.

15 16. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally  
16 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage Order  
17 and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due to  
18 PLAINTIFF, as described herein. Specifically, DEFENDANT failed to pay PLAINTIFF for all  
19 wages due for the following pay periods: 4/29/2024-5/12/2024; 5/13/2024-5/26/2024;  
20 5/27/2024-6/09/2024; and 6/10/2024-6/23/2024. DEFENDANT did not have a policy or  
21 practice which provided timely off-duty meal and rest breaks to PLAINTIFF and also failed to  
22 compensate PLAINTIFF for PLAINTIFF's missed meal and rest breaks. As a result,  
23 DEFENDANT's failure to provide PLAINTIFF with the legally required meal periods is  
24 evidenced by DEFENDANT's business records. Accordingly, PLAINTIFF is typical of the  
25 claims asserted on behalf of the CALIFORNIA CLASS. The amount in controversy for  
26 PLAINTIFF individually does not exceed the sum or value of \$75,000.

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**JURISDICTION AND VENUE**

17. This action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees of DEFENDANT pursuant to Fed. R.Civ.Proc. 23(b)(2) and/or (3).

18. Venue is proper in this Court and judicial district pursuant to 28 U.S.C. § 1391 because (i) DEFENDANT conducts and conducted substantial business within this judicial district, (ii) the causes of action alleged herein arise in whole or in part in this judicial district, and (iii) DEFENDANT committed wrongful conduct against members of the class in this district.

**THE CALIFORNIA CLASS**

19. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, (the "UCL") as a Class Action, pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3), on behalf of a California class, defined as all individuals who are or previously were employed by DEFENDANT in California, including any employees staffed with DEFENDANT by a third party, and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning March 21, 2021 and ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

20. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

21. DEFENDANT, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT

1 enjoyed the benefit of this work, required employees to perform this work and permits or suffers  
2 to permit this work.

3 22. DEFENDANT has the legal burden to establish that each and every  
4 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as  
5 required by California laws. The DEFENDANT, however, as a matter of policy and procedure  
6 failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in  
7 place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid  
8 as required by law. This common business practice is applicable to each and every  
9 CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair,  
10 and/or deceptive under Cal. Business & Professions Code §§ 17200, (the "UCL") as causation,  
11 damages, and reliance are not elements of this claim.

12 23. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA  
13 CLASS Members is impracticable.

14 24. DEFENDANT violated the rights of the CALIFORNIA CLASS under California  
15 law by:

- 16 (a) Committing an act of unfair competition in violation of , Cal. Bus. & Prof.  
17 Code §§ 17200, (the "UCL"), by unlawfully, unfairly and/or deceptively  
18 having in place company policies, practices and procedures that failed to  
19 record and pay PLAINTIFF and the other members of the CALIFORNIA  
20 CLASS for all time worked, including minimum wages owed and  
21 overtime wages owed for work performed by these employees; and,  
22 (b) Committing an act of unfair competition in violation of the UCL, by  
23 failing to provide the PLAINTIFF and the other members of the  
24 CALIFORNIA CLASS with the legally required meal and rest periods.

25 25. This Class Action meets the statutory prerequisites for the maintenance of a Class  
26 Action as set forth in Fed. R. Civ. Proc. 23(b)(2) and/or (3), in that:  
27  
28

- 1 (a) The persons who comprise the CALIFORNIA CLASS are so numerous  
2 that the joinder of all such persons is impracticable and the disposition of  
3 their claims as a class will benefit the parties and the Court;
- 4 (b) Nearly all factual, legal, statutory, and declaratory issues that are raised in  
5 this Complaint are common to the CALIFORNIA CLASS will apply to  
6 every member of the CALIFORNIA CLASS;
- 7 (c) The claims of the representative PLAINTIFF are typical of the claims of  
8 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the  
9 other members of the CALIFORNIA CLASS, was classified as a non-  
10 exempt employee paid on an hourly basis who was subjected to the  
11 DEFENDANT's deceptive practice and policy which failed to provide the  
12 legally required meal and rest periods to the CALIFORNIA CLASS and  
13 thereby underpaid compensation to PLAINTIFF and CALIFORNIA  
14 CLASS. PLAINTIFF sustained economic injury as a result of  
15 DEFENDANT's employment practices. PLAINTIFF and the members of  
16 the CALIFORNIA CLASS were and are similarly or identically harmed  
17 by the same unlawful, deceptive and unfair misconduct engaged in by  
18 DEFENDANT; and,
- 19 (d) The representative PLAINTIFF will fairly and adequately represent and  
20 protect the interest of the CALIFORNIA CLASS, and has retained  
21 counsel who are competent and experienced in Class Action litigation.  
22 There are no material conflicts between the claims of the representative  
23 PLAINTIFF and the members of the CALIFORNIA CLASS that would  
24 make class certification inappropriate. Counsel for the CALIFORNIA  
25 CLASS will vigorously assert the claims of all CALIFORNIA CLASS  
26 Members.

27 26. In addition to meeting the statutory prerequisites to a Class Action, this action is  
28 properly maintained as a Class Action pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3), in that:

1 (a) Without class certification and determination of declaratory, statutory and  
2 other legal questions within the class format, prosecution of separate  
3 actions by individual members of the CALIFORNIA CLASS will create  
4 the risk of:

5 1) Inconsistent or varying adjudications with respect to individual  
6 members of the CALIFORNIA CLASS which would establish  
7 incompatible standards of conduct for the parties opposing the  
8 CALIFORNIA CLASS; and/or,

9 2) Adjudication with respect to individual members of the  
10 CALIFORNIA CLASS which would as a practical matter be  
11 dispositive of interests of the other members not party to the  
12 adjudication or substantially impair or impede their ability to  
13 protect their interests.

14 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to  
15 act on grounds generally applicable to the CALIFORNIA CLASS, making  
16 appropriate class-wide relief with respect to the CALIFORNIA CLASS  
17 as a whole in that DEFENDANT failed to pay all wages due to members  
18 of the CALIFORNIA CLASS as required by law;

19 1) With respect to the First Cause of Action, the final relief on behalf  
20 of the CALIFORNIA CLASS sought does not relate exclusively to  
21 restitution because through this claim PLAINTIFF seeks  
22 declaratory relief holding that the DEFENDANT's policy and  
23 practices constitute unfair competition, along with declaratory  
24 relief, and incidental equitable relief as may be necessary to  
25 prevent and remedy the conduct declared to constitute unfair  
26 competition;

27 (c) Common questions of law and fact exist as to the members of the  
28 CALIFORNIA CLASS, with respect to the practices and violations of



1 California law as listed above, and predominate over any question  
2 affecting only individual CALIFORNIA CLASS Members, and a Class  
3 Action is superior to other available methods for the fair and efficient  
4 adjudication of the controversy, including consideration of:

- 5 1) The interests of the members of the CALIFORNIA CLASS in  
6 individually controlling the prosecution or defense of separate  
7 actions in that the substantial expense of individual actions will be  
8 avoided to recover the relatively small amount of economic losses  
9 sustained by the individual CALIFORNIA CLASS Members when  
10 compared to the substantial expense and burden of individual  
11 prosecution of this litigation;
- 12 2) Class certification will obviate the need for unduly duplicative  
13 litigation that would create the risk of:
  - 14 A. Inconsistent or varying adjudications with respect to  
15 individual members of the CALIFORNIA CLASS, which  
16 would establish incompatible standards of conduct for the  
17 DEFENDANT; and/or,
  - 18 B. Adjudications with respect to individual members of the  
19 CALIFORNIA CLASS would as a practical matter be  
20 dispositive of the interests of the other members not parties  
21 to the adjudication or substantially impair or impede their  
22 ability to protect their interests;
- 23 3) In the context of wage litigation because a substantial number of  
24 individual CALIFORNIA CLASS Members will avoid asserting  
25 their legal rights out of fear of retaliation by DEFENDANT, which  
26 may adversely affect an individual's job with DEFENDANT or  
27 with a subsequent employer, the Class Action is the only means to  
28 assert their claims through a representative; and,

1                   4)     A class action is superior to other available methods for the fair  
2                   and efficient adjudication of this litigation because class treatment  
3                   will obviate the need for unduly and unnecessary duplicative  
4                   litigation that is likely to result in the absence of certification of  
5                   this action pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3).

6           27.     This Court should permit this action to be maintained as a Class Action pursuant  
7 to Fed. R. Civ. Proc. 23(b)(2) and/or (3) because:

8                   (a)     The questions of law and fact common to the CALIFORNIA CLASS  
9                   predominate over any question affecting only individual CALIFORNIA  
10                  CLASS Members because the DEFENDANT's employment practices are  
11                  applied with respect to the CALIFORNIA CLASS;

12                  (b)     A Class Action is superior to any other available method for the fair and  
13                  efficient adjudication of the claims of the members of the CALIFORNIA  
14                  CLASS because in the context of employment litigation a substantial  
15                  number of individual CALIFORNIA CLASS Members will avoid  
16                  asserting their rights individually out of fear of retaliation or adverse  
17                  impact on their employment;

18                  (c)     The members of the CALIFORNIA CLASS are so numerous that it is  
19                  impractical to bring all members of the CALIFORNIA CLASS before the  
20                  Court;

21                  (d)     PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be  
22                  able to obtain effective and economic legal redress unless the action is  
23                  maintained as a Class Action;

24                  (e)     There is a community of interest in obtaining appropriate legal and  
25                  equitable relief for the acts of unfair competition, statutory violations and  
26                  other improprieties, and in obtaining adequate compensation for the  
27                  damages and injuries which DEFENDANT's actions have inflicted upon  
28                  the CALIFORNIA CLASS;

- 1 (f) There is a community of interest in ensuring that the combined assets of  
2 DEFENDANT are sufficient to adequately compensate the members of  
3 the CALIFORNIA CLASS for the injuries sustained;
- 4 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
5 to the CALIFORNIA CLASS, thereby making final class-wide relief  
6 appropriate with respect to the CALIFORNIA CLASS as a whole;
- 7 (h) The members of the CALIFORNIA CLASS are readily ascertainable from  
8 the business records of DEFENDANT; and,
- 9 (i) Class treatment provides manageable judicial treatment calculated to bring  
10 a efficient and rapid conclusion to all litigation of all wage and hour  
11 related claims arising out of the conduct of DEFENDANT as to the  
12 members of the CALIFORNIA CLASS.

13 28. DEFENDANT maintains records from which the Court can ascertain and identify  
14 by job title each of DEFENDANT's employees who have been intentionally subjected to  
15 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFF will  
16 seek leave to amend the Complaint to include any additional job titles of similarly situated  
17 employees when they have been identified.

18  
19 **THE CALIFORNIA LABOR SUB-CLASS**

20 29. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh,  
21 Eighth and Ninth causes Action on behalf of a California sub-class, defined as all members of  
22 the CALIFORNIA CLASS who are or previously were employed by DEFENDANT in  
23 California, including any employees staffed with DEFENDANT by a third party, and classified  
24 as non exempt employees (the "CALIFORNIA LABOR SUB-CLASS") at any time during the  
25 period beginning on March 21, 2022 and ending on the date as determined by the Court (the  
26 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Fed. R. Civ. Proc. 23(b)(2)  
27 and/or (3). The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-  
28 CLASS Members is under five million dollars (\$5,000,000.00).

1           30. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare  
2 Commission (“IWC”) Wage Order requirements, and the applicable provisions of California  
3 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed  
4 to correctly calculate compensation for the time worked by PLAINTIFF and the other members  
5 of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these  
6 employees, even though DEFENDANT enjoyed the benefit of this work, required employees  
7 to perform this work and permitted or suffered to permit this work. DEFENDANT has denied  
8 these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are  
9 entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable  
10 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against  
11 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted  
12 accordingly.

13           31. DEFENDANT maintains records from which the Court can ascertain and  
14 identify by name and job title, each of DEFENDANT’s employees who have been intentionally  
15 subjected to DEFENDANT’s company policy, practices and procedures as herein alleged.  
16 PLAINTIFF will seek leave to amend the complaint to include any additional job titles of  
17 similarly situated employees when they have been identified.

18           32. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
19 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

20           33. Common questions of law and fact exist as to members of the CALIFORNIA  
21 LABOR SUB-CLASS, including, but not limited, to the following:

- 22           (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay  
23 compensation due to members of the CALIFORNIA LABOR SUB-  
24 CLASS for missed meal and rest breaks in violation of the California  
25 Labor Code and California regulations and the applicable California Wage  
26 Order;

- (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- (c) Whether DEFENDANT has engaged in unfair competition by the above-listed conduct;
- (d) The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and,
- (e) Whether DEFENDANT's conduct was willful.

34. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California law by:

- (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code § 1194;
- (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing showing the corresponding correct amount of wages earned by the employee;
- (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required off-duty rest breaks;
- (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an employee is discharged or quits from employment, the employer

1 must pay the employee all wages due without abatement, by failing to  
2 tender full payment and/or restitution of wages owed or in the manner  
3 required by California law to the members of the CALIFORNIA LABOR  
4 SUB-CLASS who have terminated their employment; and,

- 5 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and  
6 the CALIFORNIA LABOR SUB-CLASS members with necessary  
7 expenses incurred in the discharge of their job duties.

8 35. This Class Action meets the statutory prerequisites for the maintenance of a Class  
9 Action as set forth in Fed. R. Civ. Proc. 23(b)(2) and/or (3), in that:

- 10 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are  
11 so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS  
12 Members is impracticable and the disposition of their claims as a class  
13 will benefit the parties and the Court;
- 14 (b) Nearly all factual, legal, statutory, declaratory and issues that are raised in  
15 this Complaint are common to the CALIFORNIA LABOR SUB-CLASS  
16 and will apply to every member of the CALIFORNIA LABOR SUB-  
17 CLASS;
- 18 (c) The claims of the representative PLAINTIFF are typical of the claims of  
19 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF,  
20 like all the other members of the CALIFORNIA LABOR SUB-CLASS,  
21 was a non-exempt employee paid on an hourly basis who was subjected  
22 to the DEFENDANT's practice and policy which failed to pay the correct  
23 amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANT's  
24 employment practices. PLAINTIFF and the members of the  
25 CALIFORNIA LABOR SUB-CLASS were and are similarly or  
26 identically harmed by the same unlawful, deceptive, and unfair  
27 misconduct engaged in by DEFENDANT; and,  
28



1 (d) The representative PLAINTIFF will fairly and adequately represent and  
2 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has  
3 retained counsel who are competent and experienced in Class Action  
4 litigation. There are no material conflicts between the claims of the  
5 representative PLAINTIFF and the members of the CALIFORNIA  
6 LABOR SUB-CLASS that would make class certification inappropriate.  
7 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously  
8 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

9 36. In addition to meeting the statutory prerequisites to a Class Action, this action is  
10 properly maintained as a Class Action pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3), in that:

11 (a) Without class certification and determination of declaratory, statutory and  
12 other legal questions within the class format, prosecution of separate  
13 actions by individual members of the CALIFORNIA LABOR SUB-  
14 CLASS will create the risk of:

15 1) Inconsistent or varying adjudications with respect to individual  
16 members of the CALIFORNIA LABOR SUB-CLASS which  
17 would establish incompatible standards of conduct for the parties  
18 opposing the CALIFORNIA LABOR SUB-CLASS; or,

19 2) Adjudication with respect to individual members of the  
20 CALIFORNIA LABOR SUB-CLASS which would as a practical  
21 matter be dispositive of interests of the other members not party to  
22 the adjudication or substantially impair or impede their ability to  
23 protect their interests.

24 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted  
25 or refused to act on grounds generally applicable to the CALIFORNIA  
26 LABOR SUB-CLASS, making appropriate class-wide relief with respect  
27 to the CALIFORNIA LABOR SUB-CLASS as a whole in that  
28 DEFENDANT fails to pay all wages due. Including the correct wages for

1 all time worked by the members of the CALIFORNIA LABOR SUB-  
2 CLASS as required by law;

3 (c) Common questions of law and fact predominate as to the members of the  
4 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and  
5 violations of California Law as listed above, and predominate over any  
6 question affecting only individual CALIFORNIA LABOR SUB-CLASS  
7 Members, and a Class Action is superior to other available methods for  
8 the fair and efficient adjudication of the controversy, including  
9 consideration of:

10 1) The interests of the members of the CALIFORNIA LABOR SUB-  
11 CLASS in individually controlling the prosecution or defense of  
12 separate actions in that the substantial expense of individual  
13 actions will be avoided to recover the relatively small amount of  
14 economic losses sustained by the individual CALIFORNIA  
15 LABOR SUB-CLASS Members when compared to the substantial  
16 expense and burden of individual prosecution of this litigation;

17 2) Class certification will obviate the need for unduly duplicative  
18 litigation that would create the risk of:

19 A. Inconsistent or varying adjudications with respect to  
20 individual members of the CALIFORNIA LABOR SUB-  
21 CLASS, which would establish incompatible standards of  
22 conduct for the DEFENDANT; and/or,

23 B. Adjudications with respect to individual members of the  
24 CALIFORNIA LABOR SUB-CLASS would as a practical  
25 matter be dispositive of the interests of the other members  
26 not parties to the adjudication or substantially impair or  
27 impede their ability to protect their interests;  
28

- 1                   3) In the context of wage litigation because a substantial number of  
2 individual CALIFORNIA LABOR SUB-CLASS Members will  
3 avoid asserting their legal rights out of fear of retaliation by  
4 DEFENDANT, which may adversely affect an individual's job  
5 with DEFENDANT or with a subsequent employer, the Class  
6 Action is the only means to assert their claims through a  
7 representative; and,
- 8                   4) A class action is superior to other available methods for the fair  
9 and efficient adjudication of this litigation because class treatment  
10 will obviate the need for unduly and unnecessary duplicative  
11 litigation that is likely to result in the absence of certification of  
12 this action pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3).

13           37. This Court should permit this action to be maintained as a Class Action pursuant  
14 to Fed. R. Civ. Proc. 23(b)(2) and/or (3) because:

- 15           (a) The questions of law and fact common to the CALIFORNIA LABOR  
16 SUB-CLASS predominate over any question affecting only individual  
17 CALIFORNIA LABOR SUB-CLASS Members;
- 18           (b) A Class Action is superior to any other available method for the fair and  
19 efficient adjudication of the claims of the members of the CALIFORNIA  
20 LABOR SUB-CLASS because in the context of employment litigation a  
21 substantial number of individual CALIFORNIA LABOR SUB-CLASS  
22 Members will avoid asserting their rights individually out of fear of  
23 retaliation or adverse impact on their employment;
- 24           (c) The members of the CALIFORNIA LABOR SUB-CLASS are so  
25 numerous that it is impractical to bring all members of the CALIFORNIA  
26 LABOR SUB-CLASS before the Court;
- 27  
28

- 1 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS  
2 Members, will not be able to obtain effective and economic legal redress  
3 unless the action is maintained as a Class Action;
- 4 (e) There is a community of interest in obtaining appropriate legal and  
5 equitable relief for the acts of unfair competition, statutory violations and  
6 other improprieties, and in obtaining adequate compensation for the  
7 damages and injuries which DEFENDANT's actions have inflicted upon  
8 the CALIFORNIA LABOR SUB-CLASS;
- 9 (f) There is a community of interest in ensuring that the combined assets of  
10 DEFENDANT are sufficient to adequately compensate the members of  
11 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 12 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
13 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-  
14 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-  
15 CLASS as a whole;
- 16 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily  
17 ascertainable from the business records of DEFENDANT. The  
18 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA  
19 CLASS Members who worked for DEFENDANT in California at any  
20 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- 21 (i) Class treatment provides manageable judicial treatment calculated to bring  
22 a efficient and rapid conclusion to all litigation of all wage and hour  
23 related claims arising out of the conduct of DEFENDANT as to the  
24 members of the CALIFORNIA LABOR SUB-CLASS.

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**FIRST CAUSE OF ACTION**

**For Unlawful Business Practices**

**[Cal. Bus. And Prof. Code §§ 17200]**

**(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

38. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

39. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code § 17021.

40. California Business & Professions Code §§ 17200, (the “UCL”) defines unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

Cal. Bus. & Prof. Code § 17203.

41. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in a business practice which violates California law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations and the California Labor Code including Sections 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder, for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

42. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair in that these practices violate public policy, were immoral, unethical, oppressive,

1 unscrupulous or substantially injurious to employees, and were without valid justification or  
2 utility for which this Court should issue equitable relief pursuant to Section 17203 of the  
3 California Business & Professions Code, including restitution of wages wrongfully withheld.  
4 PLAINTIFF's UCL claim focuses on whether DEFENDANT's business practices are  
5 misleading, unethical and in violation of California law, including the California Unfair  
6 Business Practices Act.

7 43. By the conduct alleged herein, DEFENDANT's practices were deceptive and  
8 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated  
9 meal and rest periods, the required amount of compensation for missed meal and rest periods  
10 and overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse  
11 all necessary business expenses incurred, and failed to provide Fair Labor Standards Act  
12 overtime wages due for overtime worked as a result of failing to include non-discretionary  
13 incentive compensation into their regular rates of pay for purposes of computing the proper  
14 overtime pay due to a business practice that cannot be justified, pursuant to the applicable Cal.  
15 Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§  
16 17200, and for which this Court should issue equitable relief, pursuant to Cal. Bus. & Prof.  
17 Code § 17203, including restitution of wages wrongfully withheld.

18 44. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
19 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
20 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
21 DEFENDANT.

22 45. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
23 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to provide  
24 all legally required meal breaks to PLAINTIFF and the other members of the CALIFORNIA  
25 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

26 46. Due to DEFENDANT's conduct, monetary damages would not fully compensate  
27 PLAINTIFF and the CALIFORNIA CLASS Members for the harm that they suffered. Many  
28 of the class members are current employees with ongoing violations that have and continue to



1 be inflicted upon them; thus, legal remedies, i.e., monetary damages would not remedy the work  
2 environment wherein DEFENDANT engaged and continues to engage in unlawful, unfair, and  
3 deceptive policies, practices and procedures as alleged herein. The purpose of the Cal. Lab.  
4 Code and applicable Wage Orders are to protect employees. Wage orders, like wage and hour  
5 laws, are construed so as to promote employee protection. (See *Frlekin v. Apple Inc.*, 8 Cal. 5th  
6 1038, 1045 (2020) “Employees denied their rest and meal periods face greater risk of  
7 work-related accidents and increased stress, especially low-wage workers who often perform  
8 manual labor.” (citing *Murphy v. Kenneth Cole Productions, Inc.*, 40 Cal. 4th 1094, 1113  
9 (2007). Moreover, California’s legislative history indicates that the meal period provisions are  
10 not solely “aimed at protecting or providing employees’ wages. Instead, [they are] primarily  
11 concerned with ensuring the health and welfare of employees by requiring that employers  
12 provide meal ... periods as mandated by the IWC.” ( See *Donohue v. AMN Services, LLC*, 11  
13 Cal. 5th 58, 70 (2021) [Citing *Kirby v. Immoos Fire Protection, Inc.*, 53 Cal.4th 1244, 1255  
14 (2012). As such, equitable relief would address an injury that damages could not.

15 47. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
16 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty  
17 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay  
18 for each workday in which a second off-duty meal period was not timely provided for each ten  
19 (10) hours of work.

20 48. PLAINTIFF further demands on behalf of himself and each member of the  
21 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off  
22 duty paid rest period was not timely provided as required by law.

23 49. By and through the unlawful and unfair business practices described herein,  
24 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
25 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
26 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
27 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
28 to unfairly compete against competitors who comply with the law.

1           50. All the acts described herein as violations of, among other things, the Industrial  
2 Welfare Commission Wage Orders, the California Code of Regulations, and the California  
3 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,  
4 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and  
5 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200.

6           51. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
7 and do, seek such relief as may be necessary to restore to them the money and property which  
8 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the  
9 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and  
10 unfair business practices, including earned but unpaid wages for all time worked.

11           52. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
12 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices  
13 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.  
14 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the  
15 other members of the CALIFORNIA CLASS have suffered and will continue to suffer  
16 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to  
17 engage in these unlawful and unfair business practices.

18  
19                                   **SECOND CAUSE OF ACTION**

20                                   **For Failure To Pay Minimum Wages**

21                                   **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

22                                   **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

23                                   **and Against All Defendants)**

24           53. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
25 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
26 paragraphs of this Complaint.

27           54. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
28 bring a claim for DEFENDANT's willful and intentional violations of the California Labor

1 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to  
2 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS  
3 Members.

4 55. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
5 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
6 the minimum so fixed is unlawful.

7 56. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
8 including minimum wage compensation and interest thereon, together with the costs of suit.

9 57. Specifically, DEFENDANT failed to pay PLAINTIFF for all wages due for the  
10 following pay periods 4/29/2024-5/12/2024; 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; and  
11 6/10/2024-6/23/2024.

12 58. DEFENDANT maintained a wage practice of paying PLAINTIFF and the other  
13 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of  
14 time they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and  
15 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
16 CALIFORNIA LABOR SUB-CLASS.

17 59. DEFENDANT's unlawful wage and hour practices manifested, without  
18 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
19 implementing a policy and practice that denies accurate compensation to PLAINTIFF and the  
20 other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

21 60. In committing these violations of the California Labor Code, DEFENDANT  
22 inaccurately calculated the correct time worked and consequently underpaid the actual time  
23 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.  
24 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
25 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
26 requirements and other applicable laws and regulations.

1           61. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
3 receive the correct minimum wage compensation for their time worked for DEFENDANT.

4           62. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT  
5 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS  
6 Members to work without paying them for all the time they were under DEFENDANT's  
7 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other  
8 members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they  
9 were entitled to, constituting a failure to pay all earned wages.

10           63. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
11 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
12 CLASS for the true time they worked, PLAINTIFF and the other members of the  
13 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
14 injury in amounts which are presently unknown to them and which will be ascertained  
15 according to proof at trial.

16           64. DEFENDANT knew or should have known that PLAINTIFF and the other  
17 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
18 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
19 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
20 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
21 of the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

22           65. In performing the acts and practices herein alleged in violation of California labor  
23 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
24 all time worked and provide them with the requisite compensation, DEFENDANT acted and  
25 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
26 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
27 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
28

1 of their property and legal rights, and otherwise causing them injury in order to increase  
2 company profits at the expense of these employees.

3 66. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
4 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as  
5 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
6 by the California Labor Code and/or other applicable statutes. To the extent minimum wage  
7 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members  
8 who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§  
9 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties  
10 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
11 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
12 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
13 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

### 14 15 **THIRD CAUSE OF ACTION**

#### 16 **For Failure To Pay Overtime Compensation**

17 **[Cal. Lab. Code § 510]**

18 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
19 **Defendants)**

20 67. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
21 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs  
22 of this Complaint.

23 68. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
24 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
25 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay  
26 these employees for all overtime worked, including, work performed in excess of eight (8)  
27 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
28 workweek.

1           69. Cal. Lab. Code § 510 further provides that employees in California shall not be  
2 employed more than eight (8) hours per workday and more than forty (40) hours per workweek  
3 unless they receive additional compensation beyond their regular wages in amounts specified  
4 by law.

5           70. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
6 including minimum wage and overtime compensation and interest thereon, together with the  
7 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for  
8 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

9           71. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and  
10 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by  
11 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,  
12 including overtime work.

13           72. DEFENDANT's unlawful wage and hour practices manifested, without  
14 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
15 implementing a policy and practice that failed to accurately record overtime worked by  
16 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied accurate  
17 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS for overtime worked, including, the overtime work performed in excess of eight (8)  
19 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
20 workweek.

21           73. In committing these violations of the California Labor Code, DEFENDANT  
22 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
23 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted  
24 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation  
25 of the California Labor Code, the Industrial Welfare Commission requirements and other  
26 applicable laws and regulations. As a direct result of DEFENDANT's unlawful wage practices  
27 as alleged herein, the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
28 CLASS did not receive full compensation for overtime worked.



1        74. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
2 from the overtime requirements of the law. None of these exemptions are applicable to the  
3 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,  
4 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not  
5 subject to a valid collective bargaining agreement that would preclude the causes of action  
6 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of himself  
7 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-  
8 negotiable, non-waiveable rights provided by the State of California.

9        75. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the  
10 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime  
11 worked that they are entitled to, constituting a failure to pay all earned wages.

12        76. DEFENDANT failed to accurately pay the PLAINTIFF and the other members  
13 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which  
14 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,  
15 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR  
16 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT  
17 failed to accurately record and pay as evidenced by DEFENDANT's business records and  
18 witnessed by employees.

19        77. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
20 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
21 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the  
22 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
23 injury in amounts which are presently unknown to them and which will be ascertained  
24 according to proof at trial.

25        78. DEFENDANT knew or should have known that PLAINTIFF and the other  
26 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime  
27 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
28 to not pay employees for their labor as a matter of company policy, practice and procedure, and

1 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
2 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

3 79. In performing the acts and practices herein alleged in violation of California labor  
4 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
5 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT  
6 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and  
7 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter  
8 disregard for their legal rights, or the consequences to them, and with the despicable intent of  
9 depriving them of their property and legal rights, and otherwise causing them injury in order  
10 to increase company profits at the expense of these employees.

11 80. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
12 therefore request recovery of all overtime wages, according to proof, interest, statutory costs,  
13 as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
14 by the California Labor Code and/or other applicable statutes. To the extent minimum and/or  
15 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS  
16 Members who have terminated their employment, DEFENDANT's conduct also violates Labor  
17 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time  
18 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
19 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
20 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
21 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

22  
23 **FOURTH CAUSE OF ACTION**

24 **For Failure to Provide Required Meal Periods**

25 **[Cal. Lab. Code §§ 226.7 & 512 ]**

26 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
27 **Defendants)**  
28

1           81. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
2 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
3 of this Complaint.

4           82. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time  
5 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other  
6 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and  
7 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR  
8 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their  
9 duties for the legally required off-duty meal periods. As a result of their rigorous work  
10 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
11 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
12 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
13 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced  
14 by DEFENDANT's business records from time to time. Further, DEFENDANT failed to  
15 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period  
16 in some workdays in which these employees were required by DEFENDANT to work ten (10)  
17 hours of work from time to time. A review of PLAINTIFF's wage statements reveals  
18 DEFENDANT failed to pay PLAINTIFF any meal break penalties in any of the following pay  
19 periods: 4/29/2024-5/12/2024; 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; and 6/10/2024-  
20 6/23/2024 in which he experienced meal and rest violations as described above. As a result,  
21 PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS therefore  
22 forfeited meal breaks without additional compensation and in accordance with DEFENDANT's  
23 strict corporate policy and practice.

24           83. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable  
25 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
26 CLASS Members who were not provided a meal period, in accordance with the applicable  
27 Wage Order, one additional hour of compensation at each employee's regular rate of pay for  
28 each workday that a meal period was not provided.

84. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

### **FIFTH CAUSE OF ACTION**

#### **For Failure to Provide Required Rest Periods**

**[Cal. Lab. Code §§ 226.7 & 512 ]**

**(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

85. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

86. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from time to time required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees from time to time were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers. A review of PLAINTIFF's wage statements reveals DEFENDANT failed to pay PLAINTIFF any rest break penalties in any of the following pay periods: 4/29/2024-5/12/2024; 5/13/2024-5/26/2024; 5/27/2024-6/09/2024; and 6/10/2024-6/23/2024 in which he experienced rest break violations as described above.

87. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who were not provided a rest period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that rest period was not provided.

88. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

### **SIXTH CAUSE OF ACTION**

#### **For Failure to Provide Accurate Itemized Statements**

**[Cal. Lab. Code § 226]**

**(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

89. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

90. Cal. Labor Code § 226 provides that an employer must furnish employees with an "accurate itemized" statement in writing showing:

- (1) gross wages earned,
- (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- (3) the number of piecerate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- (5) net wages earned,
- (6) the inclusive dates of the period for which the employee is paid,
- (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement,
- (8) the name and address of the legal entity that is the employer, and

1 (9) all applicable hourly rates in effect during the pay period and the corresponding  
2 number of hours worked at each hourly rate by the employee.

3 91. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
4 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage  
5 statements which failed to show, among other things, the correct gross and net wages earned.  
6 Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees  
7 with an accurate itemized wage statement in writing showing, among other things, gross wages  
8 earned and all applicable hourly rates in effect during the pay period and the corresponding  
9 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA LABOR SUB-  
10 CLASS Members were paid on an hourly basis. As such, the wage statements should reflect  
11 all applicable hourly rates during the pay period and the total hours worked, and the applicable  
12 pay period in which the wages were earned pursuant to California Labor Code Section 226(a).  
13 The wage statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA  
14 LABOR SUB-CLASS Members failed to identify such information. More specifically, the wage  
15 statements failed to identify the accurate total hours worked each pay period. When the hours  
16 shown on the wage statements were added up, they did not equal the actual total hours worked  
17 during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed  
18 above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage  
19 statement that lists all the requirements under California Labor Code 226. As a result,  
20 DEFENDANT from time to time provided PLAINTIFF and the other members of the  
21 CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code §  
22 226.

23 92. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code  
24 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA  
25 LABOR SUB-CLASS. These damages include, but are not limited to, costs expended  
26 calculating the correct wages for all missed meal and rest breaks and the amount of employment  
27 taxes which were not properly paid to state and federal tax authorities. These damages are  
28 difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA

LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

### **SEVENTH CAUSE OF ACTION**

#### **For Failure to Reimburse Employees for Required Expenses**

**[Cal. Lab. Code § 2802]**

**(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

93. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

94. Cal. Lab. Code § 2802 provides, in relevant part, that:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

95. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not limited to, costs related to using their personal cellular phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal cellular phones and power tools in order to perform work



related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal cellular phones and power tools for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to do under the laws and regulations of California.

96. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by himself and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

### **EIGHTH CAUSE OF ACTION**

#### **For Failure to Pay Wages When Due**

**[ Cal. Lab. Code §§ 201, 202, 203]**

**(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
and Against All Defendants)**

97. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs of this Complaint.

98. Cal. Lab. Code § 200 provides, in relevant part, that:

As used in this article:

(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation.

(b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

1           99. Cal. Lab. Code § 201 provides, in relevant part, “that If an employer discharges  
2 an employee, the wages earned and unpaid at the time of discharge are due and payable  
3 immediately.”

4           100. Cal. Lab. Code § 202 provides, in relevant part, that:

5           If an employee not having a written contract for a definite period quits his or  
6 her employment, his or her wages shall become due and payable not later  
7 than 72 hours thereafter, unless the employee has given 72 hours previous  
8 notice of his or her intention to quit, in which case the employee is entitled  
9 to his or her wages at the time of quitting. Notwithstanding any other  
10 provision of law, an employee who quits without providing a 72-hour notice  
11 shall be entitled to receive payment by mail if he or she so requests and  
12 designates a mailing address. The date of the mailing shall constitute the date  
13 of payment for purposes of the requirement to provide payment within 72  
14 hours of the notice of quitting.

15           101. There was no definite term in PLAINTIFF’s or any CALIFORNIA LABOR SUB-  
16 CLASS Members’ employment contract.

17           102. Cal. Lab. Code § 203 provides, in relevant part, that:

18           If an employer willfully fails to pay, without abatement or reduction, in  
19 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an  
20 employee who is discharged or who quits, the wages of the employee shall  
21 continue as a penalty from the due date thereof at the same rate until paid or  
22 until an action therefor is commenced; but the wages shall not continue for  
23 more than 30 days.

24           103. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS  
25 Members has terminated and DEFENDANT has not tendered payment of all wages owed as  
26 required by law. Additionally, at all times during the term of PLAINTIFF’s employment with  
27 DEFENDANT, PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members earned and  
28 accrued vested vacation and holiday time on the date of their termination pursuant to  
DEFENDANT’s uniform vacation policies and applicable California law. The amount of  
vacation pay PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS Members earned  
and accumulated is evidenced by DEFENDANT’s business records. Additionally,  
DEFENDANT also underpaid accrued vested vacation wages to PLAINTIFF and other  
CALIFORNIA LABOR SUB-CLASS MEMBERS by failing to pay such wages at the regular  
rate of pay and more specifically the final rate of pay that included all non-discretionary  
incentive compensation. Rather than pay vacation wages at the regular rate of pay,

1 DEFENDANT underpaid vacation wages to PLAINTIFF and other CALIFORNIA LABOR  
2 SUB-CLASS Members at their base rates of pay, instead of including all of PLAINTIFF's and  
3 CALIFORNIA LABOR SUB-CLASS Members' non-discretionary incentive compensation into  
4 the vacation wage payment calculations. DEFENDANT failed to specify in DEFENDANT's  
5 written vacation policy the rate at which PLAINTIFF and other CALIFORNIA LABOR  
6 CLASS Members would be paid vacation upon leaving employment with DEFENDANT. As  
7 a result of DEFENDANT's unlawful practice, policy and procedure to deny paying the  
8 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS all of their  
9 vested vacation and holiday time, DEFENDANT failed to pay the PLAINTIFF and the  
10 members of the CALIFORNIA LABOR SUB-CLASS all vested vacation time as wages due  
11 upon employment termination, in violation of the California Labor Code, Sections 201, 202,  
12 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties to PLAINTIFF and  
13 other CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of  
14 including all of PLAINTIFF's and CALIFORNIA LABOR SUB-CLASS Members' non-  
15 discretionary compensation into the waiting time penalty calculations. This failure by  
16 DEFENDANT is believed to be the result of DEFENDANT's unlawful, unfair and deceptive  
17 refusal to provide compensation for earned, accrued and vested vacation and holiday time, as  
18 well as the corresponding waiting time penalties that were paid. DEFENDANT perpetrated this  
19 unlawful, unfair and deceptive practice to the detriment of the PLAINTIFF and the members  
20 of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT's uniform practice and policy of  
21 failing to pay the LABOR SUB-CLASS Members for all vested vacation and holiday time  
22 accumulated at employment termination violated and continues to violate Section 227.3 of the  
23 California Labor Code.

24 109. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and the  
25 members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated and  
26 who have not been fully paid their wages due to them, PLAINTIFF demands thirty days of pay  
27 as penalty for not paying all wages due at time of termination for all employees who terminated  
28

1 employment during the CALIFORNIA LABOR SUB-CLASS PERIOD and demands an  
 2 accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

3 **NINTH CAUSE OF ACTION**

4 **For Failure to Pay Sick Pay Wages**

5 **[ Cal. Lab. Code §§ 201-203, 233, 246]**

6 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

7 **and Against All Defendants)**

8 110. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
 9 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior  
 10 paragraphs of this Complaint.

11 11 Cal Lab. Code § 233 provides that an employer must permit an employee to  
 12 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current  
 13 rate of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages  
 14 for use of accrued sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick  
 15 leave is used as paid sick time, an employee has a vested right to sick pay wages, which an  
 16 employer must calculate and compensate based on one of two calculations: (i) "Paid sick time  
 17 for nonexempt employees shall be calculated in the same manner as the regular rate of pay for  
 18 the workweek in which the employee uses paid sick time, whether or not the employee actually  
 19 works overtime in that workweek," or (ii) "Paid sick time for nonexempt employees shall be  
 20 calculated by dividing the employee's total wages, not including overtime premium pay, by the  
 21 employee's total hours worked in the full pay periods of the prior 90 days of employment."  
 22 Under Cal Lab. Code §§ 218 and 233, employees may sue to recover underpaid sick pay wages  
 23 as damages.

24 112. As a matter of policy and practice, DEFENDANT pays sick pay wages to  
 25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS at the  
 26 incorrect rate of pay. PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-  
 27 CLASS regularly use accrued sick leave in the workweeks in which they also earn non-hourly  
 28 remuneration. As a matter of policy and practice, DEFENDANT pays sick pay wages to

1 PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS at the base  
2 hourly pay, as opposed to the regular rate of pay, which would consider all non-hourly  
3 remuneration in addition to base hourly wages, or the rate resulting from dividing the  
4 employee's total wages, not including overtime premium pay, by the employee's total hours  
5 worked in the full pay periods of the prior 90 days of employment. As a result, DEFENDANT  
6 underpaid sick pay wages to PLAINTIFF and the other members of the CALIFORNIA  
7 LABOR-SUB-CLASS.

8 113. Cal. Lab. Code § 246 specifically requires that, upon use of accrued sick leave,  
9 vested sick pay wages are due and to be paid no later than the payday for the next regular  
10 payroll period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code §  
11 201 provides that if an employer discharges an employee, wages earned and unpaid at the time  
12 of discharge are due and payable immediately. Cal. Lab. Code § 202 provides that an employee  
13 is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her  
14 employment, unless the employee has given 72-hour notice of his or her intention to quit, in  
15 which case the employee is entitled to his or her wages at the time of quitting. The Labor Code  
16 penalizes untimely payments. For example, Cal. Lab. Code § 203 provides that if an employer  
17 willfully fails to pay wages owed in accordance with Cal. Lab. Code §§ 201-202, then the  
18 wages of the employee shall continue as a penalty from the due date, and at the same rate until  
19 paid, but the wages shall not continue for more than thirty (30) days. Under Cal. Lab. Code §§  
20 203 and 218, employees may sue to recover applicable penalties.

21 114. As alleged herein and as a matter of policy and practice, DEFENDANT  
22 routinely underpays sick pay wages and thus did not timely pay PLAINTIFF and the other  
23 members of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages.  
24 As a result, DEFENDANT violates Cal. Lab. Code §§ 201-203, 233, and 246, among other  
25 Labor Code provisions. PLAINTIFF is informed and believes that DEFENDANT was advised  
26 by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it  
27 relates to PLAINTIFF's allegations, especially since the California Supreme Court has  
28 explained that "[c]ourts have recognized that 'wages' also include those benefits to which an

employee is entitled as a part of his or her compensation, including money, room, board, clothing, vacation pay, *and sick pay.*” *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4<sup>th</sup> 1094, 1103 (2007)(emphasis added). Because DEFENDANT willfully fails to timely pay PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to applicable penalties.

115. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS to underpaid sick pay wages, including interest thereon, applicable penalties, attorney’s fees, and costs of suit.

### **PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3);
- B) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,
- C) Restitutionary disgorgement of DEFENDANT’s ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT’s violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to Fed. R. Civ. Proc. 23(b)(2) and/or (3);
- B) Compensatory damages, according to proof at trial, including compensatory damages for minimum and overtime compensation due PLAINTIFF and the other

members of the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;

C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;

D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;

E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;

F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit.; and,

G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

3. On all claims:

A) An award of interest, including prejudgment interest at the legal rate;

B) Such other and further relief as the Court deems just and equitable; and,

C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

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1 Dated: October 17, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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3 By: /s/ Norman B. Blumenthal

4 Norman B. Blumenthal  
Nicholas J. De Blouw

5 *Attorneys for Plaintiff*  
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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: October 17, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Norman B. Blumenthal

Norman B. Blumenthal

Nicholas J. De Blouw

*Attorneys for Plaintiff*